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Attorneys for Defendants
GUIDANT CORPORATION, INC., ADVANCED
CARDIOVASCULAR SYSTEMS, INC., ORIGIN
MEDSYSTEMS, INC. and ENDOVASCULAR
TECHNOLOGIES, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CAROL DAVIS, as executrix of the Estate of
FRANK DAVIS, and CAROL DAVIS,
individually, WENDY KAY HARRIS and
LORI SORRETT,

Plaintiffs,

v.

GUIDANT CORPORATION, INC., et al.,

Defendants.

CASE NO. 5:04-cv-00613 JF/PVT

**STIPULATION AND JOINT MOTION
TO MODIFY PRETRIAL DATES AND
[PROPOSED] ORDER**

Judge Presiding: Hon. Jeremy Fogel
Date Action Filed: February 13, 2004
Trial Date: November 3, 2006

Pursuant to Federal Rule of Civil Procedure 29 and applicable Local Rules, the parties in the above-captioned matter hereby stipulate to and jointly move for modification of certain pretrial dates, as set forth below.

1. Although the parties are working diligently to complete discovery, certain modifications to existing deadlines are necessary to accommodate additional depositions, the large amount of ongoing document production, and other unanticipated complicating factors presented by this complex case. The requested extensions should not affect the existing pretrial conference or trial dates, and the parties are not requesting any change in these dates.

2. The table below provides the new dates to which the parties have stipulated along with the existing deadline. The parties request the Court's approval of the new proposed dates:

	Existing Deadline	Proposed Extension
Fact discovery completed	December 16, 2005	February 15, 2006 extension only for fact depositions, interrogatories, requests for admissions, and subpoena of documents from nonparties; the depositions of three former Guidant employees, Messrs. Rush, Marquardt, and Watkins, and four additional fact witnesses to be noticed by Plaintiffs, and four of Decedent's treating physicians will be taken after February 15, 2006, per agreement of the parties
Plaintiffs' expert disclosures	January 12, 2006	February 15, 2006
Defendants' expert disclosures	February 28, 2006	April 3, 2006
Rebuttal expert disclosures	May 1, 2006	May 12, 2006
Expert depositions completed	May 17, 2006	May 24, 2006
Dispositive and <i>Daubert</i> motions	May 30, 2006	June 12, 2006
Pretrial conference	October 20, 2006	no change
Trial date	November 3, 2006	no change

3. During prior case management conferences, the parties have previously requested continuances of the pretrial due dates set forth above, which were granted by the court.

4. The parties have further agreed that Plaintiffs may take four additional fact depositions, thereby exceeding the number of depositions provided in the Federal Rules of Civil Procedure, which are in the process of being scheduled. The parties have further stipulated that Plaintiffs may notice for deposition former Guidant Chief Executive Officer Ron Dollens and that Defendants reserve all available objections to Mr. Dollens' deposition being taken.

THEREFORE, IT IS HEREBY STIPULATED BY THE PARTIES THAT:

- The fact discovery deadline is extended through **February 15, 2006** for fact depositions, interrogatories, requests for admission, and any subpoena of documents from third parties. Furthermore, the depositions of former Guidant employees Rush, Marquardt, Watkins, four additional fact witnesses to be noticed by Plaintiffs, and four of Decedent's treating physicians, will be taken after the fact discovery deadline per a schedule worked out by the parties. Other fact depositions may be taken after the fact discovery deadline, if necessary, by agreement of the parties.
- Plaintiffs' expert disclosures are due **February 15, 2006**. Service must be by hand, email or facsimile, unless otherwise agreed to.
- Defendants' expert disclosures are due **April 3, 2006**. Service must be by hand, email or facsimile, unless otherwise agreed to.
- Rebuttal expert disclosures are due **May 12, 2006**. Service must be by hand, email or facsimile, unless otherwise agreed to.
- Expert depositions should be completed **May 24, 2006**.

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- Dispositive Motions and *Daubert* motions are due **June 12, 2006**.

Respectfully submitted,

Dated: January 17, 2006

SCARTELLI & DISTASIO LAW FIRM, P.C.

By: 

MELISSA A. SCARTELLI

Attorneys for Plaintiffs

Dated: January 17, 2006

GORDON & REES LLP

By: 

LINDA L. NUSSER

Attorneys for Defendants

**PURSUANT TO THE ABOVE STIPULATION, THE PROPOSED MODIFIED DATES
ARE HEREBY ADOPTED. IT IS SO ORDERED.**

Dated: January 19, 2006


HON. JEREMY FOGEL

United States District Court Judge

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